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American Bar: What Judges Can Do

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AMERICAN BAR*

*What Judges Can Do***

Three outstanding recent instances show how judges can act to improve the administration of justice and what some judges in fact are doing.

In Oklahoma, as was set forth in an article in a recent issue, the Supreme Court has exercised its undoubtedly constitutional power to see that justice is administered without denial or delay. Faced with a tremendous congestion, the carry-over from earlier days and also the result of the industrial development of the State, it called in the judges of trial courts to act as commissioners. They responded promptly, and the Judicial Council has recommended that a similar demand be made on the ability and learning of the Bar, in case it is found necessary.

In California the scene shifts from the Supreme to the trial court—the Superior Court of Los Angeles. But the leading role being played by the

* This department is devoted to the activities and program of the American Bar Association. It has for its purpose the presentation of a limited amount of material calculated to keep Indiana lawyers in touch with the movements and thought of the national bar, as reflected in the activities of its Association.

** An editorial reprinted from the American Bar Association Journal, June, 1934, with the permission of the editor of that periodical.

judges in dealing with the situation is no less conspicuous. There members of the Bar have been called on to act as pro tempore judges, in accordance with an amendment to the State Constitution adopted in 1928. An article in the April issue of the Journal of the American Judicature Society states that during the past year there were 210 such judges who tried 636 cases and that this equals the full time work of two judges for a year.

In this connection it is worth noting that other states have constitutional or legislative provisions for the appointment of referees or commissioners, to whom cases at law may be referred for hearing and report, much the same as cases in equity may be referred to Masters in Chancery. These methods in ordinary times are not generally resorted to, but in case of emergency and where prolonged congestion of calendars produces a delay of justice which amounts to denial, their employment affords the opportunity to accomplish as great results in speeding up the administration of justice as have been accomplished in Los Angeles.

Next comes the Supreme Court of the United States, which has just struck at another scandalous delay—that in connection with proceedings after a plea of guilty, verdict of guilt by a jury or finding of guilt by a trial court where a jury is waived, in criminal cases in the District Courts and the Supreme Court of the District of Columbia, and in all subsequent proceedings in such cases in the Courts of Appeals and the Supreme Court itself. The delays incident to such proceedings in the past, as a result of which men who had been convicted remained at large for an indefinite period, during which all the resources of delay were invoked in their behalf, were calculated to bring the administration of justice into disrepute. The rules just promulgated deal effectively with this one aspect of the national problem of criminal law enforcement.

These examples are selected because they are all recent and are all conspicuous illustrations of the great power that lies in the judiciary to take the lead in improving present conditions. The courts, acting either in accordance with a legislative act or in the exercise of judicial power assigned to them by constitutional grant, can and ought to see that justice is done without delay. Here is a great untapped well of power and it should be boldly drawn upon to accomplish the ends for which the courts have been created.